

Jagat Mohan Lal Vs. State

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Court : Delhi

Decided On : Dec-01-2000

Reported in : 2001CriLJ1381

Judge : R.S. Sodhi, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 235(2); [Prevention of Corruption Act, 1988](#) - Sections 5 and 5(2)

Appeal No. : Crl. Appeal No. 175/77

Appellant : Jagat Mohan Lal

Respondent : State

Advocate for Def. : Santosh Kohli, Adv.

Disposition : Criminal appeal dismissed

Judgement :

R.S. Sodhi, J.

1. This Criminal Appeal No. 175/77 has been pending in this Court for nearly 23 years and can brook no further delay. The matter has been shown part-hard before this Court today but no counsel has cared to address arguments before this Court.

2. With the help of the learned counsel for the State, I have gone through the judgment under challenge as also the record of the case.

3. Brief facts of the case are that Jagat Mohan Lal, Assistant Chief Accountant, Municipal Corporation of Delhi, a public servant, has been charged that on 6.7.73 while employed and posted to discharge his official duties as a public servant abused his position and accepted Rs. 500/- as illegal gratification from Prithipal Singh-PW as a motive or reward for giving him cheque No. OB-9/666783 dated 3.7.1973 for Rs. 15,435/- for wheel barrows that was supplied by his son and thereby he had committed the offences punishable under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act and Section 161 IPC.

4. The complaint put up and exhibited as Ex. PW-1/8 dated 6.7.1973 of Shri. Prithipal Singh PW-1 states that in the year 1972 he had, undertaken a contract in the name of his son T.S. Bhatia for Asia 72 Exhibition from the Corporation for supply of 1000 items of wheel barrows at the rate of Rs. 245/- each. In fact, only 60 wheel barrows were supplied for which the bill Ex. PW-1/A dated 2.4.1973 for Rs. 15,435/- was submitted in the City Zone Office of the Corporation. The complainant, was experiencing some difficulty in receiving the cheques from the Corporation and, therefore, met the accused, who was posted as Assistant Chief Accountant in the City Zone of the Corporation but with no result. The complainant met the accused three or four times and ultimately the accused promised to get the cheque prepared within 2/4 days but demanded Rs. 500/- as bribe. The complainant reluctantly agreed to pay the bribe amount to the accused and on 5.7.1973 once again met the accused to enquire about the cheque. On that day, it was decided that the complainant will pay the amount of bribe, namely, Rs. 500/- on 6.7.1973.

5. The complainant, however, reported the matter to the Anti Corruption Branch where his statement was recorded by the Inspector K.L. Sethi (PW-11), which was signed by the complainant. Thereafter, it was decided to lay a trap for which the Inspector requisitioned the services of S/Sh. K.C. Sharma (PW-2) and K.C. Sachdeva (PW-4) to act as panch witnesses. In their presence the already recorded statement (Ex. PW-1/B) was read over and it was admitted to be correct

by the complainant, who produced five currency notes each of the value of Rs. 100/-, the numbers of which were recorded in the raid report portion Ex. PW1/C. The aforesaid currency notes were treated with phenolphthalein powder and the usual demonstration was given by making the hand of Shri K.C. Sachdeva PW touched the currency notes and then dipped in the solution of sodium carbonate, which turned its colourless shade into pink. The solution was thrown away and both the Inspector and Sachdeva washed their hands. The treated currency notes were returned to the complainant with the instructions to give the same to the accused on demand and after having such talks in the presence and within the hearing of the panch witnesses so as to indicate that the sum was given as a bribe. Similar instructions were also given to the panch witnesses to remain close to the complainant and the accused so that they can over-hear the conversation.

6. A raiding party consisting of the above persons and some officials of the Crime Branch headed by Inspector K.L. Sethi PW left Tis Hazari presses at 2.30 P.M. in taxis and reached near M.C.D. City Zone Office at Jawahar Lal Nehru Marg at about 3 P.M. The complainant informed the Inspector that the accused was of suspicious nature and he would not accept bribe in the presence of the witnesses. However, at about 3.30 P.M. the complainant came out of the room of the accused and told the Inspector that the accused was not present in his room. The Inspector then directed the complainant to wait, till the accused return, in his room. At about 4.40 P.M. Prithipal Singh PW came out of the room and gave the agreed signal on receipt of which the Inspector went to the room of the accused along with the other members of the raiding party. The accused was sitting on his chair. The Inspector disclosed his identity and challenged the accused for having accepted Rs. 500/- as bribe from Prithipal Singh. The accused denied having accepted such bribe and, therefore, Prithipal Singh PW told the Inspector that the accused had accepted the bribe amount in his right hand and transferred in into his left hand and kept the same in his front bushirt pocket. The Inspector then recovered the money from the front bushirt pocket of the accused the number of which on comparison tallied with the numbers already recorded in the raid report and have been exhibited as P1 to P5 and seized by the seizure memo PW-1/D. Both the hands of the accused were dipped into one solution of the sodium carbonate the colour of which turned pink. The solution was transferred into the bottle Ex. P6, which was sealed and seized

vide seizure memo Ex. PW1/E. The bushirt P8 was removed from the person of the accused and the inner lining of the front bushirt pocket was also dipped into another solution of sodium carbonate, which turned its colourless shade into pink. The solution was transferred into bottle Ex. P7, which was sealed and seized vide memo Ex. PW-1/F along with the bushirt. The cheque purportedly given to Prithipal Singh was produced and exhibited as Ex. P9. The seizure memos were got attested by the complainant and the two panch witnesses.

7. After investigation, copies, as required under Section 173 Cr. P.C., were supplied to the accused. On perusal of the same charges under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act and Section 161 IPC were framed. The accused pleaded not guilty and claimed trial.

8. PW-1, the complainant, was examined and proved his case as also exhibited all the relevant documents. The prosecution examined PW-3 Constable Jetha Nand, who proved on the basis of the FIR register brought by him that Ex. PW3/A is the true carbon copy of the original FIR No. 921/73 that was recorded on receipt of the rukka from Shri K.L. Sethi, Inspector ACB. Shri Subedar Singh PW-6, Superintendent MCD City Zone, Delhi deposed on the basis of the personal file and service book of the accused that the accused was appointed as an Accountant on 2.8.63 and promoted as Assistant Chief Accountant on 2.8.69 in which post he continued till 10.7.73 when he was placed under suspension. Ram Kishan Dabas was examined as PW-7, who proved the sanction Ex. PW7/B. Sh. Leela Pershad PW8, the Record Keeper, MCD, Account Branch has produced the Cheque Disbursement Register for the year 1973-74 (Ex. PW-10/A) on the basis of which he stated that at Seriall No. 83 of the register there was an entry regarding cheque No. 666783 for Rs. 15,435/-. Narinder Singh PW5 produced the file EX. PW5/A relating to the purchase of wheel barrows. Prem Chand Gupta PW-9 stated that cheque Ex. P9 was prepared by him on 3.7.1973 and the same was kept in the file and that on 6.7.73, the day of occurrence, he had left office at about 4 P.M. after informing his colleagues as the accused was not at his seat and as such he did not know who had disbursed the cheque on that day. He had identified the signatures of the accused and that of ZAC, City Zone on the cheque Ex. P9.

9. I have carefully gone through the record of the case and the evidence adduced by the prosecution as also the judgment under challenge. The judgment dated 30.4.1976 is an exhaustive judgment running into 74 pages dealing with each and every aspect of the matter in great detail. It would be pointless to go into the same contentions and dispose them off over again separately when after going through the judgment under challenge, I am satisfied that each and every aspect of the matter has been correctly dealt with and the evidence on record appreciated in accordance with law.

10. I have no hesitation in holding that the prosecution has brought home guilt of the accused beyond doubt and, therefore, the learned Special Judge has rightly held the appellant guilty under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act and Section 161 IPC.

11. The learned Special Judge, however, in the same judgment sentenced the appellant for three years and a fine of Rs. 500/- and in default of payment of fine to undergo further rigorous imprisonment for three months. This part of the Judgment of the learned Special Judge was contrary to the provisions of Section 235(2) of the Code of Criminal Procedure and, therefore, the High Court by judgment dated 23;12.1976 in Criminal Appeal No. 164/1976 was pleased to remand the matter for the purposes of awarding sentence after complying with the provisions of Section 235(2) of the Code of Criminal Procedure. The learned trial judge thereafter by his order dated 26.4.1977 was pleased to record the sentence as follows :-

'Accordingly, on the basis of his conviction on the charges under Section 5(1)(d) read with Section 5(2) of the POC Act and Section 161 IPC, I sentence Jagat Mohan Lall accused to undergo RI for two years on each of the two counts. He is further sentence to pay a fine of Rs. 1,500 under Section 5(2) of the POC Act, in default of which he shall further undergo RI for three months. Both the substantive sentences shall run concurrently.'

12. Having given a careful consideration to the order dated 26.4.77, I am of the view that no useful purpose will be served in requiring the appellant to undergo the unexpired portion of imprisonment at this belated stage. Learned counsel for the State informs me that the appellant herein is not a previous convict and also I take

into consideration the fact that the matter has been pending in this Court for 23 years and the amount involved in the case was trivial. These, according to me, are mitigating circumstances, which can justify awarding of the sentence below the minimum prescribed.

13. In the facts and circumstances of this case, I am of the view that the sentence already undergone would suffice and meet the ends of justice.

14. I, therefore, while upholding the order dated 30.4.1976 of the learned Special Judge in Corruption Case No. 15/1975, modify the order of sentence dated 26.4.1977 to that already undergone.

15. With this modification, Criminal Appeal No. 175/77 is dismissed.

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